

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Crl.MC.No. 4636 of 2003()

(CRIME NOS. 490 & 491/2003 OF KARUNAGAPPALLY POLICE STATION)

PETITIONER: (ACCUSED):

1. IBRAHIMKUTTY, S/O. MOHAMMEDKUNJU,
KOIKKARANVILAYIL, THAZHAVA VILLAGE.
2. AHAMMEDKUTTY, S/O.ABDUL RAHIMANKUNJU,
RASEENA MANZIL, THAZHAVA VILLAGE.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: (STATE & COMPLAINANT)

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. SUB INSPECTOR OF POLICE,
KARUNAGAPPALLY.

BY PUBLIC PROSECUTOR SRI PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 6-12-2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.R. UDAYABHANU, J.

CRL.M.C. NO. 4636 of 2003

Dated 6th day of December, 2006

ORDER

petitioners are the accused in crime nos.490 & 491 of 2003 of Karunagappally police station with respect to the offences alleged under Rule 6 of the Kerala Motor Spirit and High Speed Diesel (Maintenance & Regulation of Supplies) Order 1979 read with section 7(1)(a)(iii) of the Essential Commodities Act 1955 on the allegation that the first petitioner was found in possession of 9 litres of petrol and that both the petitioners were found in custody of 12 litres of petrol in the cases respectively. It is contented that no offence is made out by keeping custody of petrol to the above quantity and that there is no violation of Rule 6 in the absence of any notification in this regard issued by the Commissioner of civil supplies as contemplated in Rule 6. It is also contented that the sample has not been taken as specified in Rule 186 of the Petroleum Rules, 2002. It is submitted that sample has to be taken in two bottles, each having a capacity of 1 litre and shall be filled to nine-tens of its capacity and corked etc. In the instant case, it is evident

from annexure-A6 seizure mahazar as per which the sampling has been done that only 375 ml.was taken as sample. It is further pointed out that as per section 8 of the Petroleum Act, no licence is required for keeping petrol up to the quantity of 30 litres.

2. In spite of the direction given to the Government Pleader to produce the notification and to produce the C.D., the same is not done. It is submitted by the counsel for the petitioner that there is no such notification as contemplated in the Rules. In view of the section 8 of the Petroleum Act, keeping the above quantity of 12 and 9 litres of petrol will not amount to an offence. Moreover, the sampling was also to be done as mandated by the provision.

In the circumstances, I find that the offences alleged cannot be sustained. Hence, the proceedings in crime nos.490 and 491 of 2003 of Karunagappaly police station are herewith quashed.

The CrI.M.C. is disposed of as above.

Kvm/-

K.R.UDAYABHANU,JUDGE.

kvm/-